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CERTIFICATE OF MAILING (37 C.F.R. §1.8)

I hereby certify that this paper, together with all enclosures identified herein, are being deposited with the United States Postal Service as first class mail, addressed to Mail Stop Petition, ATTN: Senior Petitions Attorney Christina Tartera Donnell, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on or before May 15, 2006.

5-15-06
Date

William L. King III
William L. King III

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Tonar et al.
Examiner : P. Tucker
Serial No. : 10/085,434
Group Art Unit : 1712
Confirmation No. : 4510
Filed : February 28, 2002
Attorney Docket No. : GEN-001323 C3
Title : ELECTROCHROMIC LAYER AND DEVICES
COMPRISING SAME

Mail Stop Petition
ATTN: Senior Petitions Attorney Christina Tartera Donnell
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 C.F.R. §1.181

Dear Sir:

This communication is in response to the Decision on the "Petition To Withdraw Holding of Abandonment Based Upon Failure To Receive Office Action Under 37 C.F.R. §1.181,"

mailed February 14, 2006, directed to the above-identified application, which indicated that the petition to withdraw the holding of abandonment has been dismissed.

As is required in Section 711.03(c) of the Manual for Patent Examining Procedure, and as was submitted in the Petition To Withdraw Holding of Abandonment Based Upon Failure To Receive Office Action Under 37 C.F.R. §1.181, mailed April 1, 2005, **Applicant hereby respectfully states that the original Office Action mailed June 2, 2004, was not in fact received. In particular, the undersigned herein attests that a search of the file jacket and docket records indicates that the original Office Action mailed June 2, 2004, was not received.**

In the Decision, the Office states that the showing of record by Applicant is insufficient to warrant withdrawal of the holding of abandonment at this time. Specifically, it is purported that the print out of the docket record submitted by Applicant does not contain any entries of any replies docketed in the present application. Therefore, Applicant has been instructed to provide additional documentary evidence to establish non-receipt of the final Office Action, mailed June 2, 2004, such as a copy of the outside of the file jacket maintained by the practitioner. Additionally, Applicant has been invited to further explain the system for docketing USPTO communications. Applicant respectfully offers the following explanation thereof.

For at least the past decade, at the present law firm as well as its predecessor, the practitioner has utilized Intellectual Property Case Tracking System, hereinafter referred to as "CTS", an expensive, professional, electronic patent and trademark docketing system. To be sure, the CTS docketing system alerts the practitioner of upcoming due dates for all patent and trademark cases. The use of such a trustworthy, electronic docketing system eliminates the need for staff to handwrite reminders and due dates on the file jacket, which introduces the possibility

of human error. As such, a copy of the outside of the file jacket maintained by the practitioner does not include any handwritten docket entries inasmuch as the same would be duplicative relative to the CTS computerized docketing system. Therefore, as was previously shown in the Petition To Withdraw Holding of Abandonment Based Upon Failure To Receive Office Action Under 37 C.F.R. §1.181, Applicant has attached a print out of the docket record for the above-identified file, included herein as Exhibit 1, which indicates that no entry exists for the Office Action mailed June 2, 2004. For purposes of identification, the item identified as "A" is the serial number of the present case. The item identified as "B" is the case docket number. As can be seen by way of Item "C," due dates for outstanding actions are shown. Specifically, a due date for a response to decision on petition is shown, however, no due date for a response to an Office Action mailed June 2, 2004, is shown because the Office Action, which includes allowed claims, was never received. The lack of any such data in this location validates that the Office Action was not in fact received.

In an attempt to provide additional documentary evidence to establish non-receipt of the Office Action, mailed June 2, 2004, Applicant has attached a print out of the Office Action(s) recorded for the above-identified file, included herein as Exhibit 2. For purposes of identification, the item identified as "B" is the case docket number. The item identified as "D" is the Office Action having a mailing date of June 20, 2003, from the USPTO. As can be seen by way of Item "E," no more Office Actions are found for this case. The showing of such a screen of the CTS docketing system indicates that, aside from the Office Action mailed June 20, 2003, no other Office Actions were ever received.

If the Senior Petitions Attorney has additional questions regarding the docketing system used by Applicant, a phone call to FlexTrac Systems, Inc., (303) 452-3766, is respectfully

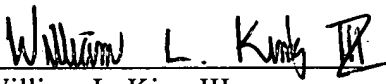
solicited.

In light of the foregoing, the Petitioner respectfully requests that the present holding of abandonment be withdrawn, without fee, and further respectfully requests reinstatement of the above-identified patent application in accordance with 37 C.F.R. §1.181.

Should anything further be required, or if the Senior Petitions Attorney has any remaining questions or concerns relative to the presently renewed petition, a telephone call to the undersigned, at (616) 355-0400, is respectfully requested in order to proceed with issuance of the present application in a timely manner.

Respectfully submitted,
KING & PARTNERS, PLC

Dated: 5-15-06


William L. King III
Reg. No. 46,830

KING & PARTNERS, PLC
170 College Avenue, Suite 230
Holland, Michigan 49423
Phone (616) 355-0400
Fax (616) 355-9862



U.S. Patent Case (Record Locked to allow your updates)

Record Other Screens Save Contact Forms Help

Case Management

Sr Atty: Pri Atty: Admin:

Application Type

☐ Provisional ☐ Design

☒ Utility ☐ Plant

☐ PCT 371 ☐ ReExam

☐ Reissue

B → Case No: Client ID:

A → App Serial No: Filing Date: Status:

Title:

Date Iss/Abn: Patent No: Patent Expiration Date:

Client Case: ☐ Exp Date Adjusted

C → Reminder List for this Case

Item	Who	Due Date
Response to decision on petition due - USA	WLK	4/14/2006

There is 1 Reminder Item for this Case

Priority Case: Priority Date:

EXHIBIT 1

V5-IP/Case Tracking System - C:\KBP Data\CTSS Data\FSP Michigan MDB (C:\CTSS00\Forms\CTSSFORM.MDB)

File Case Organization People Contacts Reports Custom Parameters PrintChart Support Request Help

Office Action (Record Locked to allow your updates)

Record Save Preferences Printers Electronic Files Panel Help

Case No: GEN-001323C3 Country: USA

Ex Parte Quale ☐ Date Mailed: 6/20/2003

Restriction Req. ☐ Date Received: 6/25/2003

Final ☐ Date Due: 9/22/2003

Received Postcard Response ☒ Last Date to File: 12/22/2003

Faxed/Emailed ☐ Date Sent/Ab:

Date Received in Patent Office:

Notes:

IP/Case Tracking System

No more Office Actions found for this Case

OK

Type of Amendment/Response

☒ Amendment/Remarks ☐ CPA ☐ RCE ☐ Appeal

☐ Preliminary Amendment ☐ Withdrawn by PTO

Advisory Action

☐ Expected ☐ Received

☐ Continue to Show Last Date to File Reminder

1/5/2004 RK

EXHIBIT 2